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Date 5-11-93

Surname [REDACTED]

MAR 25 1993

Employer Identification Number: [REDACTED]

Key District: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax as an organization described in section 501(c)(6) of the Internal Revenue Code. We have determined that you do not qualify for exemption under that section of the Code. Our reasons for this conclusion and the facts upon which it is based are explained below.

The information submitted indicates that you were incorporated on [REDACTED], under the laws of the State of [REDACTED]. Your Articles of Incorporation state that your purpose is to advance the economical and ecological development, civic and general welfare and interests of the trade area of the City of [REDACTED]. Your bylaws provide that any reputable person, association, corporation, partnership, or estate may subscribe to membership by undertaking to pay the annual dues. In [REDACTED], you had [REDACTED] members; in [REDACTED], you had [REDACTED] members; in [REDACTED], you had [REDACTED] members; and in [REDACTED], you had [REDACTED] members.

In your application, you stated that your activities consisted of conducting [REDACTED] lawful purpose gambling, holding monthly meetings with guest speakers (usually speaking on business related topics), participating in local events (such as the [REDACTED], Community Roundtable, and a one-time provision of funds in [REDACTED] to help erect and donate to the City a community changeable-letter back-lit sign for promoting community activities), welcoming new businesses in the area with floral bouquets, sponsoring an annual golf tournament, and hosting a weekly 90-second local radio spot.

Subsequently, you advised us that the [REDACTED] was a three-day hometown celebration during which many of your members were active, and that one or more of your members met at least monthly to plan the activities for the Summerfest. You engaged in this activity from [REDACTED] until it ceased in [REDACTED]. You participated in the Community Roundtable, which met once or twice

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a year to share information, in █████ and █████, after which time it was terminated. Welcoming new businesses with floral bouquets is a continuing activity since █████, with █████ businesses welcomed in █████, █████ welcomed in █████, and █████ welcomed in █████. The golf tournament is a one-day event (18 holes of golf followed by an awards banquet), held annually since about █████. Each year a committee of from three to seven of your members meets six times to plan and coordinate for a total of 10 to 12 planning hours. Five or six of your members solicit donations from local businesses for door prizes, and two to three members receive and process the tournament advance registration. An additional four or five members work the day of the tournament, checking in registrants, organizing prizes, and setting up the banquet program. Your radio spot activity consists of one of your members collecting information in the nature of public service announcements/community billboard, and faxing it to a non-member volunteer who shortens or lengthens the material to fit the 90-second time allocation; the material is sent via telephone to the radio station, where the spot is pre-taped for broadcasting.

You state that you commenced your gambling operations in █████. █████ State law permits nonprofit organizations to conduct lawful purpose gambling under strict State regulation. You conduct lawful purpose gambling (pulltabs, tipboards, and paddlewheels) at two local rented sites. A State-licensed and trained Gambling Manager, who must have been a member of the organization for at least two years, is required to operate the gambling business. Currently, your vice-president performs this service, spending approximately 25 to 30 hours per week. In addition, your president has statutory requirements regarding the gambling operation, including assuring and certifying compliance with State gambling laws, spending approximately 10 hours per month. You hire approximately ten part-time people to conduct the gambling (sellers). █████ State law requires all members of the organization to have the opportunity to vote on all gambling matters, and all expenditures must be approved in advance by the membership. Thus, you state that up to one hour of each monthly general membership meeting is spent discussing, reviewing, and approving gambling operations.

████████████████████ State law also provides that nonprofit organizations are prohibited from spending gambling funds on their own main purpose activities. For this reason, you expend your net income from your gambling operations (approximately █████% of the gross income from gambling) on a variety of community activities, including donation of funds:

- (1) to the City of █████ to publish a monthly city-wide newsletter (the primary expense from the net income and an activity you used to carry on yourself),

- (2) to the City of [REDACTED] to upgrade the hockey rink to serve youth hockey programs,
- (3) to the City of [REDACTED] to publish a free informational guide for all residents of the City of [REDACTED], also available for city and development promotions,
- (4) to the local public elementary school for programs for reading, math, and computer skills,
- (5) for an annual Christmas Day dinner for the needy and isolated,
- (6) for a Christmas donation of toys to the needy,
- (7) for the local food shelf,
- (8) for the World Cup Soccer amateur youth tournament, and
- (9) to the Boy Scouts of America.

Section 501(c)(6) of the Code provides for the exemption from federal income tax of business leagues, chambers of commerce, real-estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations provides that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league.

Rev. Rul. 78-70, 1978-1 C.B. 159, holds that a board of trade that, as its principal activity, provides grain analysis laboratory services to members and nonmembers at the same charge and that is supported almost entirely from the substantial profits of the laboratory, which is of a kind customarily carried on for profit, is not exempt from tax under section 501(c)(6) of the Code. The revenue ruling makes the point that although the organization also engages in other activities, the unrelated

business activity, which is defined as being unrelated to exempt activities within the meaning of section 501(c)(6), is the organization's principal activity. For this reason, exemption under section 501(c)(6) is precluded.

Pursuant to State law, your activities as a chamber of commerce cannot be funded through your gambling operations. In addition, you do not conduct any of the activities which you fund through your gambling operations, but rather merely distribute the funds to organizations who are actively engaged in the activity. The activities you currently engage in that are within the meaning of activities recognized as exempt activities under section 501(c)(6) of the Code are primarily either not ongoing or not lengthy in duration. On the other hand, your activities directly connected with your gambling operation are ongoing, extensive, and take up the majority of the time of your vice-president, and a significant part of your president's time, as well as all the time of your ten part-time workers. Even your monthly general membership meetings, at which the majority of your ongoing activities other than gambling take place, include up to one hour concerned directly with your gambling operations. Your board meetings, similarly, expend a substantial and significant amount of time on your gambling operation.

Although your gambling operation is only one of a number of activities that you engage in, it is engaged in more frequently and to a greater degree than any other activity or combination of activities you perform. Your non-gambling activities are actively carried out once a month or less, while your personnel actively perform their activities regarding gambling on a daily basis. Thus, it is obvious that your primary activity at the present time, as measured by time spent and the involvement of your membership and paid employees, is the operation of gambling.

An organization engaging in unrelated business activities may be recognized as exempt under section 501(c)(6) of the Code only when it can be determined that such activities do not constitute the organization's primary purpose as explained in Rev. Rul. 78-70, supra. There is no question that the operation of gambling is trade or business unrelated to exempt purposes for organizations exempt under section 501(c)(6) of the Code. Therefore, since your primary activity is gambling, you do not meet the requirements set out in section 1.501(c)(6)-1 of the regulations.

For these reasons, we conclude that you do not qualify for recognition of exemption from federal income tax under section 501(c)(6) of the Code. You are required to file federal income tax returns.

[REDACTED]

You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your officers. You also have a right to a conference in this office after your protest statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies of it will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to your key District Director.

When sending additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following symbols on the envelope: E:E0:R:4-CCH, Room 6236. These symbols do not refer to your case but rather to its location.

Sincerely yours,

[REDACTED]
[REDACTED]
Chief, Exempt Organizations
Rulings Branch 4

6/19/93
[REDACTED]
[REDACTED]
cc: [REDACTED]

[REDACTED]
3-22-93

[REDACTED]
3-24-93